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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN THE MATTER OF THE APPLICATION
OF OXUS GOLD PLC FOR ASSISTANCE
BEFORE A FOREIGN TRIBUNAL

DOCUMENT FILED ELECTRONICALLY

**Honorable Garrett E. Brown, Jr., U.S.D.J.
Honorable John J. Hughes, U.S.M.J.
Index No. MISC-06-82**

NOTICE OF MOTION
Motion Returnable:

ORAL ARGUMENT REQUESTED

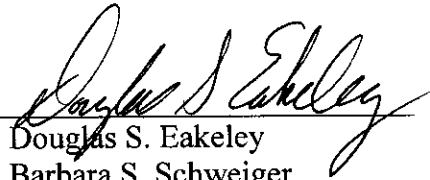
**RESPONDENT JACK A. BARBANEL'S MOTION ON SHORT NOTICE
TO VACATE THIS COURT'S AUGUST 14, 2006 AND AUGUST 18, 2006
ORDERS PURSUANT TO 28 U.S.C. §§ 1782 AND 1783, TO QUASH THE
SUBPOENA ISSUED TO JACK A. BARBANEL, AND
TO AWARD FEES AND COSTS**

On consent of the Petitioner, Respondent Jack A. Barbanel, through his undersigned counsel, respectfully moves on short notice, pursuant to Fed. R. Civ. P. 45(c)(3)(A), for an order vacating this Court's August 14, 2006 and August 18, 2006 Orders, quashing the subpoena served upon Mr. Barbanel by Petitioner Oxus Gold plc, and awarding him appropriate fees and costs incurred in responding to the improper subpoena. Mr. Barbanel seeks this relief because the subpoena was not validly served under the Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, nor did it include the required tender of fees and expenses; because 28 U.S.C. § 1783 does not authorize a subpoena to be

served abroad where, as here, there are no pending proceedings in the United States, the district court has not made the required findings under the statute, and the subpoena is overly broad; and because the statutory requirements of 28 U.S.C. § 1782 are not satisfied and discretionary considerations weigh against issuing the subpoena. The grounds for this motion are set forth in the accompanying memorandum of law and the Declarations of Jack A. Barbanel, Glenn Kolleeny, Illarion Stepanovich Adamyan, and Douglas S. Eakeley.

Respectfully Submitted,

By: _____


Douglas S. Eakeley
Barbara S. Schweiger
Alan S. Modlinger

Dated: September 5, 2006

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Jack A. Barbanel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 5, 2006, a copy of the foregoing MOTION ON SHORT NOTICE TO VACATE THIS COURT'S AUGUST 14, 2006 AND AUGUST 18, 2006 ORDERS PURSUANT TO 28 U.S.C. §§ 1782 AND 1783, TO QUASH THE SUBPOENA ISSUED TO JACK A. BARBANEL, AND TO AWARD FEES AND COSTS, and the accompanying Memorandum of Law, and Declarations of Jack A. Barbanel, Glenn Kolleeny, Illarion Stepanovich Adamyan, and Douglas S. Eakeley, were filed electronically.

The attorneys who are registered with the Electronic Filing System may access the filing through the Court's system, and notice of this filing will be sent to these parties by operation of the Court's Electronic Filing System.

In addition, a copy of the foregoing NOTICE and accompanying documents were sent via Federal Express to:

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Alan S. Modlinger

Dated: September 5, 2006